

The Public Defenders

Annual Review

2018 - 2019

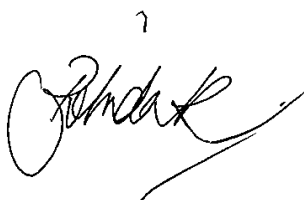
The Hon. Mark Speakman MP
Attorney General
52 Martin Place
SYDNEY NSW 2000

Dear Attorney General,

2018 – 2019 Annual Review

Pursuant to section 17 of the *Public Defenders Act 1995*, I am pleased to forward the Public Defenders' report for the year ending 30 June 2019 for tabling in Parliament.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Belinda Rigg', with a small question mark above it.

Belinda Rigg SC
Senior Public Defender

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Foreword

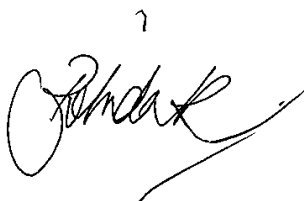
This is my first annual report as Senior Public Defender having been appointed near the end of this financial year. I acknowledge that many of the achievements referred to in this report are due to the hard work, innovation and dedication of my predecessor, Mark Ierace SC, now Justice Ierace of the NSW Supreme Court.

This office has experienced many changes over the last year but the dedication of all Public Defenders and the commitment to excellence fostered under his leadership has made my job so much easier. Our role in the Rolling List Court and District Court Special Call-overs has made a significant contribution in reducing the District Court backlog – and this is largely due to his close involvement with these strategies.

We have lost many years of experience with the retirement of Chris Bruce SC, Helen Cox and John Fitzgerald and also with the impending retirement of Robyn Burgess. Of note too, is the retirement of the longest serving member of our administrative staff, Lyn Wilson, who commenced her duties as a stenographer in 1987 and who finished her career looking after our website for many years. Their contribution to this office has been immeasurable. We have been fortunate however, to have gained some exceptionally talented Public Defenders in recent years who will benefit greatly from the mentorship and guidance of our longer- serving Public Defenders.

I am proud too of our contribution to the education and training provided by this office to the profession through a wide variety of seminars and other CPD events, including our regular annual criminal law conference; the “Under 5’s” junior barristers’ advocacy course; our training on the new EAGP and sentencing reforms; and the soon to be launched Bar Book initiative. Public Defenders continue to play a vital role with their contribution to law reform and participation in Departmental and professional committees, in addition to managing very demanding case loads.

I acknowledge the professionalism and support provided by our partners in the criminal justice system – Legal Aid NSW, the ALS NSW/ACT, community legal centres and the private profession and look forward to working with them all to ensure that we provide the best representation possible for those who face disadvantage in the criminal justice system.

A handwritten signature in black ink, appearing to read 'Belinda Rigg', with a stylized flourish at the end.

Belinda Rigg SC
Senior Public Defender

The Role of Public Defenders

Public Defenders are barristers appointed as independent statutory officers by the Governor of NSW under the *Public Defenders Act 1995* (“the Act”).

The principal duty of a Public Defender is to represent socially and economically disadvantaged persons charged with serious criminal offences who have been granted legal assistance, either by Legal Aid NSW, The Aboriginal Legal Service NSW/ACT (ALS) or other community legal centres.

Organisational Structure and Duties of Public Defenders

The Senior Public Defender

The Senior Public Defender is responsible to the Attorney General for the proper exercise of the functions set out in section 8 (1) of the Act which include:

- the making of arrangements and giving of directions to ensure the effective and efficient conduct of Public Defenders’ work;
- providing advice and assistance to Public Defenders and monitoring their work;
- consulting with the Legal Aid NSW, the Aboriginal Legal Service NSW/ACT (ALS) and other community legal centres (CLCs) on the provision of legal assistance to legally assisted persons; and
- advising the Attorney General on law reform.

The Senior Public Defender also conducts a Supreme Court trial and appellate practice in addition to management and legal policy responsibilities.

The Senior Public Defender, Mark Ierace SC, was appointed as a Justice of the Supreme Court on 31 January 2019 and Belinda Rigg SC was appointed as Senior Public Defender on 29 May 2019. Richard Wilson acted in the position of Senior Public Defender in the interim period.

Deputy Senior Public Defenders

The Act provides that the Governor may appoint one or more Deputy Senior Public Defenders. There are currently three Deputy Senior Public Defender positions which are occupied by Sophia Beckett, Richard Wilson and Michael King - who is responsible for regional Public Defenders.

The functions of a Deputy Senior Public Defender include assisting the Senior Public Defender as required in addition to the conduct of trial and appellate practices. The Senior and Deputy Senior Public Defenders form the management team for chambers with the assistance of the Chambers Manager, and also work together on high level policy and law reform matters.

Functions of Public Defenders

The functions of a Public Defender are set out at Section 10 of the Act and include:

- advising and appearing in criminal proceedings;

- advising on matters referred by the Senior Public Defender;
- carrying out other related functions as may be specified by the Attorney General in consultation with the Senior Public Defender; and
- providing representation in Parole Board and mental health legislation proceedings and related matters.

The Senior Public Defender may establish written guidelines on the exercise of the above functions of the Public Defenders, however this does not derogate “from the authority of a Public Defender in respect of the conduct of any proceedings” (section 6 (4)).

Appointment of Public Defenders

The terms of appointment under the Act were changed in 2007 to remove life tenure for Public Defenders appointed after the commencement of the new provisions. Public Defenders may now be appointed for a period of up to seven years following a probationary period of 12 months as an Acting Public Defender.

Public Defenders appointed for a seven year term must have their performance reviewed under the *Guidelines for the Appointment of Public Defenders* by a review committee at the conclusion of each seven year period. They may be appointed for a further seven years if recommended by the review committee. The Senior Public Defender and Deputy Senior Public Defenders are appointed for renewable terms of seven years.

There are now 29 Public Defender positions for the whole of NSW. Four of these positions have been created with the provision of additional funding to help address the District Court backlog.

Two Public Defender positions are fully funded by Legal Aid NSW on an ongoing basis as set out in the annual service level agreement available on our website.

As barristers, Public Defenders are bound by the *Legal Profession Uniform Conduct (Barristers) Rules 2015* and related legislation and are therefore subject to the same disciplinary regime for professional conduct as other counsel.

Highlights of the year

Significant Cases

***Attorney-General for New South Wales v XX* [2019] HCA Trans 52**

The question of what constitutes fresh evidence for the purpose of retrial after an acquittal was the subject of an application to the High Court for special leave in *Attorney-General for New South Wales v XX* [2019] HCA Trans 52.

The application concerned the disappearance and suspected murder of three children from Bowraville in the early 1990s. After an order was made for separate trials, the respondent had been tried and acquitted of the murder of two of the victims in 1994 and 2006. He was never put on trial in relation to the third victim.

In an application for a retrial in relation to the two acquittals under s.100(1) of the *Crimes (Appeal and Review) Act* 2001, the Attorney General sought to argue that evidence in relation to the third victim constituted fresh evidence under s.102(2) of the Act. Although the evidence had been available, it had not been used by the Crown deeming it to be inadmissible. On retrial the Attorney General intended all three matters to be heard in a single trial and treated as coincidence evidence.

The Court of Criminal Appeal rejected the argument in *Attorney General for New South Wales v XX* [2018] NSWCCA 198 at [225] ruling the term 'adduced' in s.102(2)(a) and (b) meant 'tendered' or 'brought forward' irrespective of its admissibility. Thus the definition of fresh evidence as evidence that 'could not have been adduced in those proceedings with the exercise of reasonable diligence' does not extend to evidence that was available but not tendered because it was viewed to be inadmissible. This was affirmed by the High Court refusing an application by the Attorney General for special leave to appeal on this point. The CCA case was led by Mark Ierace SC in his capacity as Senior Public Defender.

***R v Perkins* [2018] NSWCCA 62**

Special leave to appeal to the High Court was refused on 14.12.2018 from *R v Perkins* [2018] NSWCCA 62, on the issue of whether *R v Bugmy* (2013) 249 CLR 571 requires demonstration of any causal link between significant childhood deprivation and the offending in order for that background to be taken into account as a mitigating factor (*Perkins v The Queen* [2018] HCATrans 267; S188 of 2018 (14 December 2018)).

In *Perkins* the applicant, aged 18 and of prior good character, was sentenced for murder. On sentence he relied upon a psychological report that detailed his exposure to family and domestic violence for the first half of his life, including alcohol abuse. The applicant submitted on appeal that the sentencing judge erred in failing to take into account in mitigation his childhood disadvantage relying on *Bugmy*. The appeal was dismissed by majority (Hoeben CJ at CL; White JA in a separate judgment; Fullerton J dissenting). Hoeben CJ found the applicant's childhood was not a matter to properly take into account by way of mitigation because there was no evidence it was causally linked: at [42]; *Bugmy* at [44]. White JA (agreeing with Hoeben CJ as to the outcome of the appeal) and Fullerton J (dissenting) said that the High Court in *Bugmy* did not say that if a background of deprivation is established it will only be a mitigating factor if a causal link is established between that background and the offence: at [77], [99]–[100].

Rather, the effects of social deprivation and its weight in the sentencing exercise is a matter for individual assessment: *Perkins* at [77]; [100]; *Bugmy* per Gageler J at [56].

It is noted that in *R v Irwin* [2019] NSWCCA 133 (in which Sophia Beckett, then Deputy Senior Public Defender, appeared) the Court found that the sentencing judge accepted as a factual conclusion that the offender had established a background of deprivation and, in those circumstances, the judge erred by concluding a causal link was required between upbringing and offending before *Bugmy* principles could be applied: at [116]; citing *Perkins* per White JA and Fullerton J above.

The “Rolling List Court” (RLC) program

The aim of this program is to resolve trial matters by early case management, thus reducing the time taken from committal to finalisation and ultimately addressing some of the factors leading to the current backlog of cases in the NSW District Court.

This initiative was developed in collaboration with the Chief Judge of the NSW District Court, the Office of the Director of Public Prosecution (ODPP), Legal Aid NSW and Public Defenders. It is based on the successful model in place in certain regional courts with a local Public Defender and Crown Prosecutors. Counsel are typically briefed earlier than in other metropolitan courts, and the ongoing working relationships between them and their respective instructing solicitors from Legal Aid NSW and the ODPP leads to a more efficient disposition of matters. The close co-operation and daily interaction of these personnel builds a level of professional trust and communication which enables issues in a trial or sentence matter to be identified at an earlier stage. It saves time and expense if the matter can be resolved before trial by an early plea of guilty or appropriate charge modification.

The pilot program began in the Downing Centre District Court in April 2015, with two Public Defenders and two Crown Prosecutors, instructed by a team of Legal Aid NSW and ODPP solicitors. One Judge is allocated to manage the work of the court. The criteria for referral of a trial to the RLC are:

- it is an in-house legal aid matter with an estimate of no more than two weeks;
- there are no co-accused;
- there are no fitness issues; and
- the offence is a State prosecuted matter.

This year **56 matters were completed in the RLC with 24 guilty pleas entered before trial**. In another 12 matters, clients were either found not guilty or the case was finalised by a successful “no bill” application. These results are consistent with the trends identified in the NSW Bureau of Crime Statistics and Research evaluation in 2018 where the rate of guilty pleas before trial was higher than those matters excluded by ballot from the RLC.

The Early Appropriate Guilty Plea (EAGP) legislation which took effect this year may have some impact on comparisons of early guilty pleas entered under the RLC and the new EAGP procedure, however the program will continue until at least the end of 2019 when further evaluation will take place.

Early Appropriate Guilty Pleas (EAGP)

The EAGP legislation took effect on 18 April 2018. This new legislative scheme effectively changed committals for all indictable matters by introducing a system of statutory caps for discounts to be applied to sentences for early pleas of guilty. The aim, amongst other things, was to encourage charge negotiation at an earlier stage of the proceedings at the Local Court with the aim of reducing last minute pleas of guilty at the time of trial.

Public Defenders recognised the need to provide assistance to the profession to enable practitioners to understand and comply with the new regime. In particular, considerable effort was put into creating a ‘Table of Common Charge Options’ and in compiling a list of resources which are available on our website.

We received **194 requests** for EAGP matters however some of these matters were transferred to private representatives before completion. Of the **53 matters completed**, just over half were resolved without going to trial. Approximately 29% of the matters referred involved a charge of murder, manslaughter or related charges. This is significant given that it is much harder to resolve a murder offence within the time frames provided due to the complexity of these matters.

Super Call-Overs in the District Court

The scheduling of super call-overs in the NSW District Criminal Courts is one of the strategies employed by NSW justice agencies to help reduce the District Court trial backlog. The aim of the super call-overs is to target unresolved trials listed at designated courts with the aim of encouraging appropriate guilty pleas by defendants on the advice of defence counsel and in negotiation with Crown Prosecutors and the ODPP.

Public Defenders assisted with seven super call-overs held in the District Courts at Broken Hill, Campbelltown, Coffs Harbour, Dubbo/Orange, Gosford, Newcastle and Sydney (Commonwealth matters only). The most effective call-overs were at Broken Hill, Dubbo/Orange, Gosford and Newcastle with an **estimated resolution of between 52-58% of the briefs received by Public Defenders.**

The success of these call-overs is due to the close co-operation between Public Defenders, Legal Aid NSW, ALS, the ODPP and Crown Prosecutors, Judges, court staff and Corrective Services in ensuring the whole process runs as efficiently as possible.

Long and Complex District Court Trials

Public Defenders have given priority to accepting long and complex trials in the Sydney District Court where possible to help clear the back log of these matters.

Nine trials listed for four weeks or longer were resolved, with six of these resulting in early guilty pleas before trial, thus saving an estimated 42 weeks of court sitting time. Another matter listed for twelve weeks was reduced to five weeks due to successful negotiations on the agreed facts in issue. **Overall we achieved a reduction of nearly a year’s worth of court sitting time.**

Service Level Agreements

Formal arrangements for access to our services are contained in service level agreements (“SLAs”), which are negotiated annually with Legal Aid NSW and the ALS.

The SLAs set a framework for the type of work undertaken by Public Defenders, with priority given to more serious, lengthy and complex matters in the District, Supreme and higher appellate courts. By focusing on these high-cost matters, Public Defender services are used in the most efficient and effective manner. These agreements ensure we regularly consult with the parties and help maintain strong relationships with Legal Aid NSW and the ALS.

The SLAs also set out the regional and metropolitan sittings of the Supreme and District Courts covered by Public Defenders. We aim to balance our resources to ensure that regional and remote communities have equal access to Public Defenders whenever possible.

Public Defenders are located at Orange (1), Lismore (1), Newcastle (2), Tamworth (1), Port Macquarie (1), Wollongong (1) and Wagga Wagga (2). One Public Defender is located at the Parramatta Justice Precinct. Representation in regional and non-metropolitan court sittings now accounts for approximately 47 per cent of our work.

About 85 per cent of the work briefed to Public Defenders comes directly from Legal Aid NSW lawyers, or from private lawyers who have obtained a grant of legal aid for their client. The remaining 15 per cent is briefed by the ALS or other community legal centres.

Determining Priorities by Service Level Agreements

The acceptance and allocation of briefs to Public Defenders is largely determined by the service level agreements with Legal Aid NSW and ALS.

The purpose of these agreements is to ensure the most cost effective use of our mutual resources. The types of matters where Public Defenders are briefed include:

- Supreme Court trials;
- long and/or complex District Court trials;
- circuit work at nominated regional centres;
- appellate work in the High Court, Court of Criminal Appeal and Court of Appeal; and
- committal hearings involving serious criminal charges.

Public Defenders may also appear in coronial inquiries either at the request of Legal Aid NSW, the ALS or the Crown Solicitor’s Office.

Public Defenders also provide representation at circuit sittings of regional District and Supreme Court sittings as needed.

Annual Statistics for matters completed 2018-19

	STATE	C'WEALTH	TOTAL
Children's Court	9	0	9
Coroner's Court	0	0	0
Local Court	92	4	96
Drug Court	0	0	0
District Court	574	38	612
State Parole Authority	0	0	0
Supreme Court	84	7	91
Mental Health Review Tribunal	2	0	2
Court of Criminal Appeal Advices	151	9	160
Court of Appeal Advices	1	0	1
High Court Advices	10	1	11
Court of Criminal Appeal Hearings	47	4	51
Court of Appeal Appeals	0	0	0
High Court Appeals	0	1	1
GRAND TOTAL	1034		

Public Defenders are often briefed in lengthy and complex trials to help contain the cost of such matters. The allocation of a Public Defender to these trials will have an impact on the total number of matters completed in the year as they are not available to do other trials. Preparation time is also extensive given the voluminous briefs provided in such matters.

Comparison of matters completed over consecutive financial years are therefore not necessarily indicative of increasing or decreasing workloads or productivity and any comparison of annual figures should be treated with caution.

This year Public Defenders **accepted 1,304 requests** for assistance and **declined 2,150 requests**. Matters are declined for a number of reasons, including conflict of interest or more commonly, due to the unavailability of a Public Defender to accept the brief because of other work commitments.

The distribution of work (matters completed this year) across the various court jurisdictions is approximately as follows:

Jurisdiction	Percentage
District Court	60%
Court of Criminal Appeal	20%
Local and Children's Courts	10%
Supreme Court	9%
High Court	less than 0.1%

The ratio of matters in Sydney compared with regional and non-metropolitan courts is 54:46. This slight imbalance is largely due to the number of CCA matters which are all heard in Sydney. **Preparation time amounted to 2,890 days** with an additional **2,989 conference hours** spent with solicitors, clients and witnesses. This year Public Defenders spent **1,634 days in court**.

Other Assistance Provided

Public Defenders are an important point of contact for the legal profession. This year they provided **265 recorded instances of assistance** to the profession on legal, ethical and practice issues either by telephone or brief written advices.

Our website is a valuable research tool for the profession, students and the general public. Sentencing tables and other resources on the website are used by practitioners and the judiciary, who regularly comment on the usefulness of this resource.

Public Defenders and the Justice System

Public Defenders are an integral part of the justice system. Their extensive experience as criminal barristers is well recognised by all participants in the administration of criminal justice.

In addition to providing representation to legally aided clients, Public Defenders play an important role beyond the courtroom through their involvement in government and other committees tasked with policy development.

Committees of the NSW Bar Association, Legal Aid NSW and Related Bodies

Public Defenders work closely with the NSW Bar Association at many different levels with a number of Public Defenders being members of the following committees:

- Criminal Law Committee
- First Nations Committee
- Indigenous Barristers Strategy Working Party and the Indigenous Barrister's Trust
- Joint Working Party on Over-representation of Indigenous People in the Criminal Justice System
- Professional Conduct Committees
- Legal Aid Committee
- The Law Council of Australia National Law Committee as a nominee of the NSW Bar Association

Our participation with the Australian Bar Association Committees includes representation by one Public Defender as Vice Chair of the Criminal Law Committee and member of the Indigenous Committee.

Public Defenders assist with assessing applications from solicitors and barristers who apply for inclusion on the various Legal Aid criminal law panels.

Participation in Justice and other Committees

- Crime and Justice Reform Committee
- Criminal Business Committee
- Criminal Justice Transformation Board
- Child Sexual Assault Evidence Pilot Committee
- Child Sexual Assault Judicial Reforms and Monitoring Implementation Group
- District Court Backlog Senior Officers Group
- District Court Criminal Listing Committee
- EAGP Reform Committee
- *Just Connect* AVL Implementation Committee
- Legal Aid NSW Specialist Barristers and Solicitors Panels, including the Children's Criminal Law panel
- Legal Practitioners Consultative Group
- Mental Health Reforms
- Royal Commission into Institutional Responses to Child Sexual Abuse Criminal Justice Working Group
- Standing Inter-agency Advisory Committee on Court Security
- The Sentencing Council
- The *Bugmy* Evidence Project – a joint project of Norton Rose Fulbright and the ALS
- Walama Court Working Group (previously the District Court Working Group)
- Western NSW Community Legal Centre Committee

Law Reform

An important function of Public Defenders under the Act is the provision of advice to the Attorney General and the Department of Justice on law reform. Public Defenders are routinely invited to make submissions on criminal law reform at the request of the NSW and Australian Law Reform Commissions, NSW Sentencing Council and Parliamentary Committees of Inquiry. In addition, a number of Public Defenders participate in law reform committees and advisory groups.

Written submissions made during the year include the following:

- *Mental Health and Cognitive Impairment Forensic Provisions Bill 2018*

- Legislative proposals in relation to illicit drugs for consideration of the Music Festival Safety Panel - Policy & Reform
- *Crimes Amendment (Drug Supply Causing Death) Bill 2018*
- *Crimes Legislation Amendment (Victims) Bill*
- The Special Commission of Inquiry into the Drug "Ice"
- Consultation on revised DPP Prosecution Guidelines
- Consultation Paper on Criminal Appeals
- Proposed Review of SNPP for Bushfire & Destroy Property by Fire Offences
- Proposed Review of Sentencing for Murder and Manslaughter
- First *Justice Portfolio Miscellaneous Amendment Bill (No.1) 2019*
- Proposed reform to facilitate greater admissibility of tendency & coincidence evidence in criminal proceedings
- NSW Law Reform Commission "Open Justice Review": Preliminary Submissions –
- *Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2019* for Standing Committee on Law and Justice, NSW Legislative Council

Continuing Professional Education

Public Defenders are invited to speak at seminars and conferences conducted by Legal Aid NSW, the Aboriginal Legal Service, Young Lawyers, the NSW Bar Association and tertiary institutions.

We provide tutors for readers at the Bar, internships for law students undertaking external placement programs and practical legal training, as well as year 10 high school work experience opportunities. Public Defenders provide mentoring under various programs including the Lucy Mentoring Program and the NSW Bar Association's Aboriginal Mentoring Program.

Annual Conference

The annual criminal law conference continues to be a drawcard for the profession within NSW and interstate.

The conference was formally opened by the Attorney General, the Hon. Mark Speakman. A full copy of the program and conference papers can be located at our website www.publicdefenders.nsw.gov.au.

Dubbo Day of Practical Advocacy

Public Defenders held a very successful “Day of Practical Advocacy” seminar in Dubbo in response to a strong interest from local practitioners for this type of training. Speakers included regional and Sydney-based Public Defenders and His Honour Judge Lerve. Over 56 lawyers from Legal Aid, the ALS and private practice attended.

Under 5s practical advocacy training

This course is designed to provide practice-based learning to junior counsel with five or less years’ experience at the Bar. The course runs over a six month period with one session per month.. Twenty three junior counsel enrolled this year and provided very positive feedback on the course which included presentations by two District Court Judges, a Crown Prosecutor and Public Defenders.

Aboriginal Law Graduates Program

This year we were able to fund the practical legal training (PLT) for two Aboriginal Law graduates – Desiree Leha and Bryce Wilson. This is a paid internship program which also helps fund the costs of compulsory PLT training and provides invaluable experience working with Public Defenders in a para-legal capacity. Both Bryce and Desiree attended the National Indigenous Law Conference in Darwin with their attendance and travel funded by this office.

Bryce Wilson made the following comments about the program:

My name is Bryce Wilson, I am a proud Wiradjuri man who currently works as an Aboriginal PLT graduate at the Public Defenders. I started at the Public Defenders in February 2019, after finishing my Bachelor of Criminology and Laws at the University of New England, Armidale.

Whilst at the Public Defenders I have had the opportunity to meet and work for some of the most influential and inspirational barristers and senior counsel in criminal law. I have also had the opportunity to work closely with Josh Brock, who has mentored me and inspired me through his hard work and advocacy skills. I have assisted Josh with a number of matters and tasks; mainly assisting with the District Court Rolling List Court and the 2019 Campbelltown Special Call over.

Further, I have had the privilege of contributing to the Public Defenders Bar Book Project as a researcher and writer of the ‘Intergeneration Trauma’ chapter of the Bar Book. While I have had many great experiences, having this opportunity has been one of my highlights. I also had the privilege of presenting the Bar Book project at the 2019 National Indigenous Law Conference in Darwin, with my colleague Desiree Leha.

I would like to especially thank Sophia Beckett and Josh Brock for giving me the greatest start to my legal career. This program has given me the skills, experience and confidence to enter the legal fraternity and fulfil my passion of giving back to my community, and giving a voice to those that have lost their own.

Overall, this program has been of great benefit to me and I would (and have) recommended this opportunity to all future Aboriginal lawyers I meet.

Bryce and Desiree made an invaluable contribution to this office with their hard work and dedication and, in particular, by involving us in their celebration of NAIDOC week and educating us on the importance of this event. Both have moved into employment in their chosen field of practice after completing the graduate program.

Other seminars and training

This year we ran seminars for the profession on:

- “An update of *Bugmy* Principles and presenting evidence of disadvantage”.
- Sentencing Reforms

Public Defenders collaborated with Sydney University on two innovative electives:

- The “Not Guilty Project” - which brought together interdisciplinary teams of students to investigate cases referred for review.
- The Criminal Trial – a simulated trial based on a real case where students are able to practise their advocacy skills as defence and prosecution counsel.

Visit by Legal Aid Department of Malaysia

Several representatives of the Legal Aid Department of Malaysia met with senior staff to find out about the establishment, sources of funding, duties, functions and appointment process for Public Defenders. Their aim was to find out as much as possible about the administration of legal aid in NSW with the view to extending their services to cover more matters in the criminal jurisdiction which are currently quite limited.

The Bar Book Project

This project aims to collate and distil into an accessible format authoritative research on various categories of disadvantage and the potential impact of those experiences on people coming into contact with the criminal justice system. This material can be used in court when presenting evidence on disadvantage and its impact on the client in sentencing proceedings.

A committee of widespread interests and expertise was convened to develop and manage this resource with input from the profession, academics, legal researchers and students who have all put in an enormous amount of work this year to bring this project to fruition. It will provide an extremely useful resource for the profession when it is made available on the Public Defenders website following the formal launch later this year.

Funding and Accountability

Funding

The primary source of funding is the Department of Justice. The Public Defenders' **budget for this financial year was \$10,316,249** which represents the net cost of services. Employee-related expenses continue to represent about 85 per cent of the budget.

Additional funding of \$2.017 million was provided by the NSW Government as part of the continuing strategy to address the District Court backlog. This funding has enabled the recruitment of four additional Public Defenders since this program commenced and also covers travel expenditure for super call-overs and other on-costs.

Additional revenue is obtained under the SLAs from:

- **Legal Aid NSW**, which provided **\$919,666**. This amount funds two Public Defender positions and provides partial funding for one legal research officer.
- The **ALS**, which provided **\$177,000**.

(Full details of the Public Defenders' budget are available from the NSW Department of Communities and Justice.)

Accountability

The Public Defenders are accountable to the Attorney General and his Department through the provision of reports on agreed performance indicators which are based on the number of completed briefs within defined parameters. Regular reports may also be provided on the progress of business plan initiatives, financial management and risk assessments.

Annual statistics are provided to Legal Aid NSW and the ALS as required under the service level agreements.

Although Public Defenders are not public servants the office has adopted the administrative policies and procedures of the Department. Administrative support staff are public servants and therefore bound by both the *Government Sector Employment Act 2013* and *Public Finance and Audit Act 1983*.

Senior clerks employed by the Public Defenders are responsible for the day-to-day management of administrative, human resources and financial matters.

Government Information (Public Access) Act 2009 (GIPAA)

Public Defenders meet the requirements of the GIPA Act to provide open access to information for the public where possible and without charge. Our website provides access to the following documents:

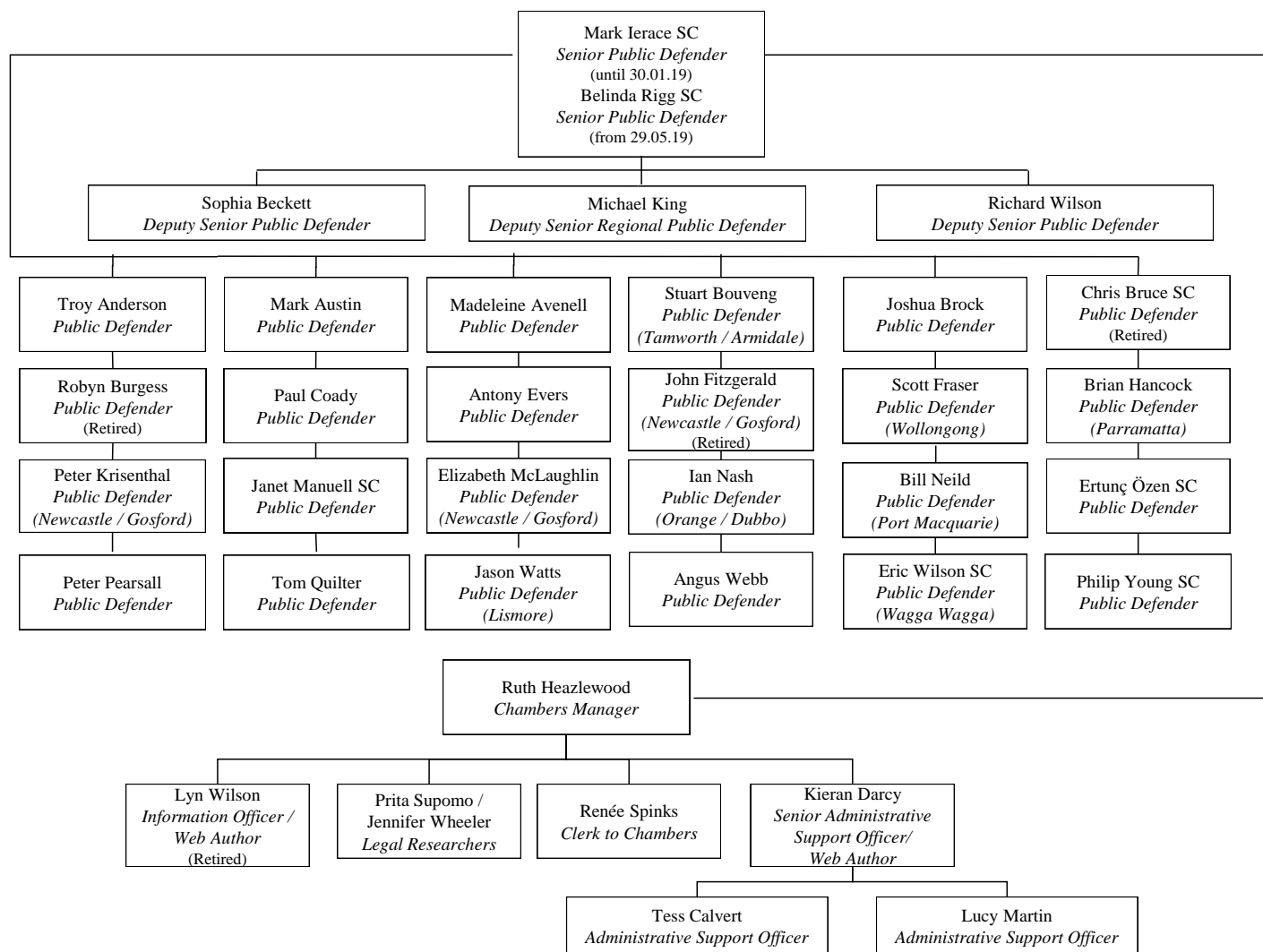
- Annual reports
- Service Level Agreements
- Relevant legislation

- Guidelines for Appointment of Public Defenders
- Legal research materials
- Information on internships
- Papers prepared by Public Defenders
- Conference papers

Legal professional privilege precludes access to clients' information.

We have had no requests made under GIPAA this year.

Organisation Chart as at 30 June 2019



Public Defenders 2018-2019

Senior Public Defender (SPD)		
Mark Ierace SC	appointed 7 year term re-appointed 7 year term appointed to Supreme Court Bench	16.07.2007 14.07.2014 31.01.2019
Belinda Rigg SC	appointed 7 year term	29.05.2019
Richard Wilson	acting	31.01.2019 -28.05.2019
Deputy Senior Public Defenders (DSPD)		
Sophia Beckett	acting short term secondment as Crown Prosecutor fixed term appointment* appointed DSPD 7 year term	29.03.2016 30.05.2016 - 01.07.2016 29.03.2017 09.07.2018
Michael King	acting fixed term appointment* appointed DSPD 7 year term	30.08.2010 30.08.2011 14.05.2018
Richard Wilson	acting fixed term appointment* appointed DSPD 7 year term	23.01.2012 23.01.2013 14.05.2018
Public Defenders		
Troy Anderson	acting fixed term appointment*	15.05.2017 15.05.2018
Mark Austin	permanently appointed	05.06.1995
Madeleine Avenell	acting fixed-term appointment*	29.01.2018 29.01.2019
Stuart Bouveng	acting fixed term appointment*	15.08.2016 15.08.2017
(Trevor) Josh Brock	acting	21.01.2019
Chris Bruce SC	permanently appointed retired	26.04.1988 11.02.2019
Robyn Burgess	acting (part-time) permanently appointed (part-time) extended leave pending retirement	13.12.2000 10.11.2005
Paul Coady	acting fixed-term appointment*	29.01.2018 29.01.2019
Helen Cox	permanently appointed (currently part-time) extended leave pending retirement	17.07.1995
Antony Evers	acting fixed term appointment*	14.07.2014 29.03.2017
John Fitzgerald	acting fixed term appointment* retired	25.01.2010 25.01.2011 11.02.2019
Scott Fraser	acting	21.01.2019
Brian Hancock	acting fixed term appointment* re-appointed 7 year term	29.08.2005 29.10.2009 29.10.2016
Peter Krisenthal	acting fixed term appointment*	14.07.2014 09.09.2015
Janet Manuell SC	acting fixed term appointment* re-appointed 7 year term	06.02.2007 13.06.2008 24.06.2015
Elizabeth McLaughlin	acting	29.01.2019
Ian Nash	acting fixed term appointment*	23.01.2012 23.01.2013
Bill Neild	acting fixed term appointment*	05.09.2016 05.09.2017
Ertunc Ozen SC	acting fixed term appointment*	27.05.2013 03.06.2014
Peter Pearsall	permanently appointed	06.12.2001
Tom Quilter	acting fixed term appointment*	08.05.2017 08.05.2018
Belinda Rigg SC	acting permanently appointed	27.01.2004 01.07.2006
Nathan Steel	acting	02.10.2018
Jason Watts	acting fixed term appointment*	03.06.2013 27.05.2014
Angus Webb	acting permanently appointed	15.07.1996 27.01.1998
Eric Wilson SC	acting permanently appointed	27.01.1998 09.08.2001
Philip Young SC	permanently appointed	24.07.2002

* Appointment for fixed term of 7 years renewable under 2007 amendments to the Act

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Ruth Heazlewood

Clerk to Chambers

Renee Spinks

Hours

Monday to Friday between the hours of 8.30am and 5.00pm